Supreme Court, U.S.
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No. 03 58

In The
Supreme Court of the United States

Albert L. Peia,
Petitioner

v.

The United States Bankruptcy Court for the District of Connecticut, the United States of America, and Richard M. Coan, Individually, and in His Representative Capacity for the United States Trustee, and John Does 1 – 15,
Respondents

On Petition for Writ of Certiorari
To The United States Court of Appeals
For the Second Circuit

PETITION FOR WRIT OF CERTIORARI

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38 pp

I. QUESTIONS PRESENTED FOR REVIEW

1. Are the documented criminal acts of federal employees/contractors, including those proscribed by RICO and other federal law and for which civil damage remedies are prescribed, immune from either prosecution, accountability, or liability under the doctrine of sovereign immunity?

2. Are the documented criminal acts of federally employed judges, including those proscribed by RICO and other federal law and for which civil damage remedies are prescribed, immune from either prosecution, accountability, or liability under the doctrine of judicial immunity?

3. Do the criminally illegal and commercial acts of defendant usa through federal employees, agents, and contractors including high-ranking u.s. government officials/employees, of the nature of those as would be committed by private persons or actors, violative of RICO and other federal law and non-governmental thereby as involved in this case render inapposite the doctrine of sovereign immunity asserted by defendant usa in this case.

4. Did ignoring the clear language of the decision of Robert N. Chatigny, U.S.D.C.J., dist. of conn., by the lower courts to protect criminally and civilly culpable RICO violator/ co-conspirator and violator of other federal law, defendant coan constitute reversible error?

5. Whether the case of *Averbach v. Rival Mfg. Co.*, 809 F.2d 1016,1018 (3rd Cir.1987),*certiorari denied*, 107 S.Ct. 3187, 482 U.S. 915, 96 L.Ed.2d 675, *certiorari denied*, 108 S.Ct. 83, 484 U.S. 822, 98 L.Ed.2nd45) is still good law and hence, the corrupt bankruptcy court, dist. of conn., an enterprise within the ambit of RICO thereby?

6. Did the Lower court commit prejudicial error in failing to apply equitable tolling in light of the innumerable cover-ups in this case violative of RICO, obstructing justice thereby among other predicate acts including perpetrating a fraud connected with a case under Title 11, U.S.C.?

7. Is the 1881 Case Of Barton V. Barbour apposite where there was no damage caused to the estate by the trustee involved therein as defendant coan has done herein, nor breaches of fiduciary duty as "accomplished" defendant coan here, nor other criminal acts (there was no RICO Act at that time but same still would not have been applicable therein) committed by said trustee as is so of defendant coan pursuant to RICO and other federal law and was reliance upon same by the lower court a clearly corrupt, reversible error?

8. Does the case of In Re Lehal Associates Even Remotely Support Defendant Coan's Position where in that case the trustee wound up a multimillion dollar estate paying all creditors, expenses, and returning several million plus a building to debtors/plaintiffs, unlike defendant coan who has damaged plaintiff's estate and creditors thereby purposefully, criminally, as well as negligently, and did the lower court commit clearly corrupt criminally reversible error in purported reliance thereon?

9. Should this court abdicate its duty and responsibility pursuant to its supervisory powers in light of the clearly criminal acts of federal judicial and other federal employees/contractors in furtherance of and to cover-up RICO predicate among other federal crimes committing misprision of felony thereby?

II. PARTIES (same as caption; Albert L. Peia, Petitioner Pro Se;The United States Bankruptcy Court for the District of Connecticut, the United States of America, Respondent, and Richard M. Coan, Individually, and in His Representative Capacity for the United States Trustee, Respondent).

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D. Ruling of the u.s.district court for the distict of Connecticut filed June 8, 2001 granting defendant u.s.' motion to dismiss, infra at pages 7 - 21

E. Ruling of the u.s.district court for the distict of Connecticut filed March 12, 2002 granting defendant coan's motion to dismiss, infra at pages 22 - 33

V. JURISDICTION

The judgment of the Court below (Appendix , infra at pages 1 - 3) was entered on April 9, 2003. Rehearing was not sought. The jurisdiction of this court is invoked under 28 U.S.C. Section 1254 (1).

VI. STATUTES

A. Racketeer Influenced and Corrupt Organizations Act (RICO), Title 18 U.S.C. Sections 1961 et seq., which is set forth in Appendix, infra at pages 38 - 62

B. The federal statute concerning Misprision of Felony, though nothing turns on its terms, Title 18 U.S.C. Section 4, provides as follows:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

C. The federal statute concerning Bribery of Public Officials and Witnesses, though nothing turns on its terms, Title 18 U.S.C. Section 201, provides as follows:

(a) For the purpose of this section--

(1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United

States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever--

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent--

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever--

(1) otherwise than as provided by law for the proper discharge of official duty--

(A) directly or indirectly gives, offers, or

promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the

reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.
(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

D. The federal statute concerning Conspiracy to commit offense or to defraud United States, though nothing turns on its terms, Title 18 U.S.C. Section 371, provides as follows:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the **conspiracy**, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the **conspiracy**, is a misdemeanor only, the punishment for such **conspiracy** shall not exceed the maximum punishment provided for such misdemeanor

E. The federal statute concerning , though nothing turns on its terms, Title 28 U.S.C. Section 2674, provides as follows:

Sec. 2674. - Liability of United States

The United States shall be liable, respecting the provisions of this title relating to **tort claims**, in the same manner and to the same extent as a private individual under like circumstances, but shall not be

liable for interest prior to judgment or for punitive damages.

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof.

With respect to any **claim** under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the **claim**, as well as any other defenses to which the United States is entitled.

With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.

VII. STATEMENT OF THE CASE

As a courtesy to the court, I have referenced the relevant filings that will facilitate review thereof (just scroll and click - and view) on my web sites as follows:

http://www. alpeia.o-f .com
http://www.albertlouispeia.fcpages.com
http://www.albertlouispeia.1afm.com
http://www.albertlouispeia.wtcsites.com
http://www.albertlouispeia.150m.com
http://www.albertlouispeia.5u.com
http://www.albertlouispeia.aokwebhost4free.com
http://www.albertlouispeia.012webpages.com
http://albertlouispeia.netfirms.com
http://albertlouispeia.bravepages.com
http://peia.5u.com
http://alpeia.5u.com
http://peia.250free.com
http://www.america.i8.com .

[I have also, as accepted by the Second Circuit Court of Appeals and hence, part of the record hereof supplied this court with 10 CD ROMS of the subject filings, also containing documentary evidence of the criminal activities involved in this case causing Petitioner substantial damages. Noteworthy are the Affidavits of FBI agent Richard Taus ("2nd circuit" relevant criminal activities and cover-up by federal employees) and CIA agent Dois Gene Tatum (regarding involvement of former u.s. presidents George Bush Sr., Bill Clinton, and former u.s. attorney attorney general and counsel to the CIA William Barr in the domestic and international illegal drug trade and drug money laundering). I have waived copyright in same and duplication is encouraged, as is so of the subject websites. I can make more copies if you would like. The CD ROM was also sent

by certified mail to u.s. attorney general ashcroft, also documented on the websites].

It is axiomatic that Section 904(a) of the Organized Crime Control Act of 1970 expressly provided that "the provisions of this title[RICO] shall be liberally construed to effectuate its remedial purposes." The Courts, including this (U.S. Supreme) Court, *See, e.g., Sedima,S.P.R.L. v. Imrex Co.,Inc.*,473 U.S. 479 (1985), have (except those involved in the corruption set forth herein) invariably taken said admonition to heart. I respectfully ask this Court to apply a rule of reason consistent with the glaringly outrageous facts of this case in contravention of the intent of the RICO act and the liberal construction to be accorded same in furtherance of the intent of the act as discussed *infra*. Moreover, it must be emphasized that defendant USA, whose blatently illegal acts should be accorded no greater immunity than that denied to other sovereigns engaged in criminal acts, has at all times controlled (corruptly) the very processes (judicial and otherwise, including prosecutorial)for effecting the intent of the RICO act, fraudulently concealing and criminally thwarting clear violations thereof, and obstructing justice thereby. Finally, the RICO enterprise involving defendant Bankruptcy court and defendant Coan involves, pursuant to the RICO Act, treble damages and joint and several liability thereunder.

J. Dorsey doesn't know the Law of RICO,which is convenient considering the government's(his employer's) corruption and illegal activities as involved and documented in this case through employees,agents,contractors,and co-conspirators herein. [One may reasonably surmise/infer that after a less than stellar "legal/judicial career" J. Dorsey is looking for that final, desperate career "boost/bribe" (financial or otherwise) as was so with ie., Maryanne Trump (to 3rd Circuit Court of Appeals plus continuing drug money flows to the Trump family casinos),Sam Alito (to 3rd Circuit

Court of Appeals), former u.s. trustee Hugh Leonard (received his bribes directly from RICO defendant Dilena and companies), Assistant U.S. Attorney Jonathon Lacey (private practice) "bribe deal") etc., with accompanying illegal cover-up, destruction of evidence, obstruction of justice, etc., as set forth in Plaintiff's Verified Complaint]

Factual Summary

Quite simply, this case is exactly the factual scenario that RICO was enacted to address, viz., the "eradication of organized crime in the United States". Unfortunately, as the law of RICO has evolved to meet this laudable goal, so to has organized crime evolved and grown to include criminal elements within the ranks of and as contractors for, the U.S. government itself, viz., ie., employees thereof, through bribes and otherwise.The RICO predicate acts of (illegal drug) money laundering, bankruptcy fraud, obstruction of justice, bribery, retaliation against a witness/victim/informant, and racketeering along with other substantive causes sounding in (continuing)(negligence)(and prima facie) tort and fraudulent concealment thereof, causing plaintiff/appellant substantial damages (to property and business) thereby, are set forth in detail and under penalty of perjury in Petitioner's Verified Complaint and RICO Statement.

It should be noted that the purported chronology/record referenced by J. Dorsey and relied upon by Judge Chatigny, controlled by defendant USA contained inaccuracies favorable to defendant USA, ie., the 1989 Chapter 7 proceeding in Virginia (which followed corrupted proceedings under Ch.11 (N.J.), and Ch.13 (Conn.) and which would have resolved all matters by liquidation (3 real properties with substantial equity and the RICO action) was extent as of the date set forth, at least one creditor had received a document indicated that I had received a discharge on consummation, which was neither sought nor

given inasmuch as said proceeding was not consummated according to law, etc. It should be further noted that the CIA, actively involved in the crimes of the type set forth in the RICO action (see FBI and CIA agents' affidavits referenced supra), is headquartered in Virginia, and in close proximity to the subject court.

Summary of Legal Argument

The matter concerning the leave of court requirement prior to suit against defendant Coan was already clearly decided by Judge Chatigny and *res judicata*(and/or collateral estoppel) as to same herein and as such, constitutes clear error by J. Dorsey. The criminal acts of Shiff, Coan, Leonard, Trump, (along with other federal employees) etc., in furtherance of and to cover-up RICO predicate (and, incidentally other tortious) acts by reason of which plaintiff sustained injury to his property and business, and for which joint and several liability is apposite, should be criminally prosecuted under RICO and other federal law (ie., misprision of felony, etc.), are clearly within the ambit of the doctrines of equitable estoppel and fraudulent concealment, and the Summary Order of the court below should be **reversed.**

FACTS

It is important to emphasize that the action brought by defendant Coan had a (this defendant) bankruptcy court reference, viz., Bankruptcy No. 95-51862, No. 3:97-CV1165(RNC). Indeed, in light of defendant Coan's illegal acts to damage plaintiff and to benefit other RICO co-conspirators/defendants, I made no secret of my intent to utilize the judicial process to seek damages against defendant Coan for his intentional and illegal acts damaging me, and coincidentally, any legitimate creditors of my estate. (Parenthetically, it should once again be

emphasized that it was defendant Coan's own knowledge of his own illegal acts damaging me that did prompt his subject action before Judge Chatigny to preclude me from suing him without leave of court). This intent to sue defendant Coan for damages arising from his illegal acts in the context of his purported role as trustee of my Chapter 7 estate in bankruptcy was clearly articulated and subsumed in the proceeding before Judge Chatigny and included his past, current(, and anticipated future) illegal acts violative of RICO and other federal law. That defendant Coan failed to raise other legal theories therein does not change the law of the case, res judicata effect thereof, and he is estopped to raise said issue again as before J. Dorsey, an appeal not having been taken by defendant Coan thereof. Specifically, in Judge Chatigny's own concluding words in pertinent part,

> 'On the existing record, a "leave of court" requirement should ***not*** (emphasis supplied)be imposed on Peia with regard to ***any*** (emphasis supplied) future legal action he might bring against plaintiff Coan.....If Peia does sue Coan, and the complaint proves to be frivolous, appropriate sanctions can be imposed by the judge who gets that complaint, including an order prohibiting Peia from filing another action without leave of court.' 212 B.R. 217, 220 (D.Conn.1997).

At the least, J. Dorsey would have had to have made such a finding, which could not have been made without further corruption of the process and RICO violations, since Coan's purposeful, illegal, and negligent acts damaging plaintiff were clear, uncontrovertible, and indefensible. The damages to plaintiff have been substantial.

THE LAW

1. The Legal Doctrines of Res Judicata/Collateral Estoppel Preclude Defendant Coan's Bad Faith Efforts to Evade Jurisdiction In This Case and Judgment is Appropriate Against Him for His Clearly Unlawful Conduct as a Matter of Law.

"Under the doctrine of res judicata, or claim preclusion, final adjudication on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action," *St. Pierre v. Dyer,* 208 F.3d 394,399(2d Cir.2000)(quoting *Federated Dep't Stores,Inc.v. Moitie,*452 U.S. 394,398(1981)); *Leather v. Eyck,* F.3d 420,424(2d Cir.1999)(quoting *Rivet v. Regions Bank of La.,*522 U.S. 470,476(1998));see also *S.E.C. v.First Jersey Sec.,Inc.,*101 F.3d 1450,1463(2d Cir.1996).

2. THE 1881 CASE OF BARTON V. BARBOUR DOES NOT BAR THE PRESENT ACTION.

The 1881 case of *Barton v. Barbour,* 104 U.S. 126 (1881), involved a plaintiff that had brought an action for injuries sustained while a passenger in a train, which railroad was currently in receivership. Said plaintiff brought the action against the receiver without having sought leave of court from the court that had appointed him. It is important to emphasize that there was no allegation or even a hint of impropriety, culpability, or illegality on the part of either the receiver or the subject court that had appointed him. Indeed, the fundamental and underlying *ratio decidendi* and policy considerations leading ineluctably to said Court's conclusion was that to permit such an action without leave of court would potentially impair the (value of the)property in the hands of the receiver, to the detriment of existing creditors and prior claimants.*Id.*,127-129.

In the case *sub judice,* the precise opposite is true.

Moreover, there was no RICO statute extent at said time to address the endemic and pervasive corruption that has become synonomous with America today and that the RICO statute was enacted thwart consistent with the liberal construction to be accorded said remedial legislation as per the Court in *Sedima, S.P.R.L. v. Imrex Co., Inc.*, 473 U.S. 479 (1989). Specifically, plaintiff/ appellant's action herein was to preserve the estate which has been purposefully and consistently damaged by defendant coan consistent with a pattern of racketeering activity by an enterprise of which defendant coan along with defendant U.S. Bankruptcy court that appointed him was a part. It should further be noted *a fortiori* that plaintiff/appellant's action would inure to the benefit of the estate and consequently, legitimate creditors and/or claimants thereof. It further is true that at the evidentiary hearing before Judge Chatigny as discussed *infra,* on cross examination by plaintiff/appellant and repeated in follow-up questioning by Judge Chatigny, defendant coan admitted he did not know of any legal way a real property as plaintiff/appellant's could have been sold during the pendancy of the automatic stay (and the consequent fraud concerning surplus funds among other causes/predicate violations, etc.), and those ripe for the entry of default (/judgment), etc.. (RE)Citing the 1951 case of *Mosser v. Darrow,* 341 U.S. 267, 71 S.Ct. 680, 95 L.Ed. 927 (1951), the Court in *Conn. Gen. Life Ins. V. Universal Ins. Cos.*, 838 F.2d 612 (1st Cir. 1988), sets forth the words of the Supreme Court as are apposite here and provided in pertinent part,

> "a trusteeship is serious business and is not to be undertaken lightly or so discharged. The most effective sanction for good administration is personal liability for the consequences of forbidden acts……", *Id.* at 621,

and hence, defendant coan's personal liability herein, having been sued individually herein. Indeed, said Court in

Conn. Gen. Life Ins., supra, continues stating that federal courts have uniformly held that bankruptcy trustees are subject to personal liability for the willful and deliberate violation of their fiduciary duties, and even for negligent acts by said trustees. *Id.*; *see e.g., In re Gorski,* 766 F.2d. 723,727 (2d.Cir.1985); *In re Cochise College Park, Inc.,* 703 F.2d. 1339, 1357 (9th Cir. 1983). Moreover, the U.S. District Court has a significant interest in overseeing and correcting the conduct of (corrupt) trustees as defendant coan herein, and where jury trial is demanded as in Plaintiff/Appellant's Verified Complaint in the instant case. *See generally, In re Lehal Realty Associates, supra* at 275,277.

3. IN RE LEHAL ASSOCIATES DOES NOT EVEN REMOTELY SUPPORT DEFENDANT COAN'S POSITION.

In re Lehal Associates, 101 F.3d 272 (2nd Cir. 1996), is clearly distinguishable from the instant case inasmuch as the trustee in that case had benefitted the estate through his actions, as opposed to coan who has purposefully and illegally damaged plaintiff's estate, benefitting RICO defendants, consistent with the RICO violations and conspiracy. Specifically, in *In re Lehal Associates,* the trustee's efforts in the bankruptcy case resulted in payment of all legitimate creditors and administration expenses in full and a return to debtor of several million dollars. *Id.*

4. DEFENDANT COAN IS ESTOPPED FROM RELITIGATING AN ISSUE DECIDED AT THE EVIDENTIARY HEARING BEFORE JUDGE CHATIGNY BY THE DOCTRINES OF RES JUDICATA/COLLATERAL ESTOPPEL.

Contrary to defendant's unsupported/bald assertions, defendant coan's illegal acts are part of the pattern of racketeering activity set forth in the subject litigation /adversary proceedings; that is, defendant coan is merely another RICO conspirator (continuing) in the RICO violation to commit bankruptcy fraud, obstruct justice, etc., as set forth in plaintiff/appellant's verified complaint, and to defraud plaintiff's estate, creditors thereof, and plaintiff/appellant.

As set forth in defendant coan's brief below, defendant coan sought the order to preclude plaintiff from suing him. The reason is eminently clear inasmuch as coan was well aware of his blatent, brazened illegal conduct violative of RICO and contrary to bald assertion, *Id.*, was part of the pattern of RICO activity as set forth in plaintiff's complaint. U.S.C. 18 Section 1965(5) provides as follows:

> "'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity(.)"

Moreover, contrary to defendant coan's unsupported assertion, the fact is that at the hearing before Judge Chatigny, on my cross-examination of coan and reiterated in the follow-up questioning by Judge Chatigny, Coan admitted that he did not know of any legal way a real property as plaintiff's could have been sold during the pendancy of the automatic stay which was one of the RICO causes which coan purposefully and illegally (in violation of RICO) damaged, defrauding/injuring plaintiff, estate and creditors thereby, while concomitantly benefitting said RICO defendants.

Additionally, contrary to defendant coan's unsupported assertions, the evidence is the same, defendant coan being

merely a (nother)"john doe" defendant conspiring to and participating in the conduct of an enterprise through a pattern of racketeering activity.

Even assuming *arguendo*, though contrary to a more rational view given the goals of RICO, that no liability attaches to defendant u.s. for the the numerous predicate violations of RICO which should have been criminally prosecuted, as well as in tort including fraud(ulent concealment and corruption in) the process, the same may still be part of the pattern of racketeering activity, and the participation in the conduct of an enterprise (which can include a court *Averbach v. Rival Mfg. Co.*, 809 F.2d 1016,1018(3rdCir.1987),*certiorari denied,* 107 S.Ct. 3187, 482 U.S. 915, 96 L.Ed.2d 675, *certiorari denied,* 108 S.Ct. 83, 484 U.S. 822, 98 L.Ed.2d 45) ["AA" at 55-65,97,108], viz., u.s. bankruptcy court herein and their appointee coan particularly, within the ambit of RICO.

Indeed, it is the duration of this (RICO) misbehavior, including culpable cover-ups (*viz.*, ie., fraud, as herein, connected with a case under Title 11, etc.) that delineates the boundaries of the pattern. *See, e.g., Midwest Grinding Co. v. Spitz,* 976 F.2d 1016 (7th Cir. 1992), especially involving an extent (indefensible) RICO cause of action ripe for the entry of (default) judgment (involving the property sold during the pendancy of the automatic stay and bankruptcy fraud thereby, plaintiff's testimony, and other causes therein.

5. Defendant USA is a Proper Party Defendant in This Case.

The case of *United States v. Bonanno Organized Crime Family,* 879 F.2d 20(2d Cir.1989) does not even remotely stand for the proposition purportedly relied upon and asserted by J. Dorsey in his speciously "reasoned" ruling. Rather, as applies to defendant USA, the Court held the U.S. government not to be a "person" within section

1961(3)capable of filing a section 1964(c) claim, being separately empowered to sue under section 1964(b), which does not afford a treble-damage remedy. *Id.* Additionally, the Court held an organized crime family not to be a "person" under section 1961(3) owing to its inability to hold a legal or beneficial interest in property inasmuch as an organized crime family's purpose, structure and operations are wholly and innately unlawful. *Id.* Given the unlawful conduct of defendant USA in this case and generally, J. Dorsey's confusion is totally understandable and "convenient"..

6. Sovereign Immunity Does Not Apply in This Case.

In rejecting the assertion of Nigeria that it could neither be accused of nor held liable for "indictable" RICO predicate acts (Foreign Sovereign Imunities Act, 28 U.S.C. §1604 et seq.), in *Southway v. Central Bank of Nigeria,* 198 F.3d 1210 (10th Cir. 1999), the Court reasoned as is apposite herein in pertinent part:

> 'Defendants.....essentially ask us in construing RICO and the FSIA to ascribe an intent to Congress which would effectively insulate foreign states, their agents, and instrumentalities from the scope of civil RICO. We do not believe Congress envisioned such a construction of RICO and the FSIA. Congress' purpose in enacting the FSIA was to codify the restrictive principle of sovereign immunity.....to cases involving acts of a foreign state which are sovereign or governmental in nature, as opposed to acts which are either commercial in nature or those which private persons normally perform.....Meanwhile, in enacting RICO, Congress expressly instructed courts to liberally construe its provisions "to effectuate its remedial purpose"..... RICO's "'remedial purposes' are nowhere more evident than in the provision of a private action for those injured by racketeering activity," *Sedima S.P.R.L. v. Imrex Co.,Inc.,* 473 U.S. 479,498, 105 S.Ct. 3275 (1985), activity which

often will be commercial in nature.' *Southway,* 198 F.3d at1216.

Surely, as set forth *supra* and in the case *sub judice,* the RICO predicate violations of Defendant USA's employees, agents, and contractors by reason of which plaintiff/appellant sustained substantial injury to his property and business could not possibly be deemed sovereign or governmental.

Despite strong policy reasons militating against sovereign immunity as set forth *supra*, even assuming, *arguendo,* the grant of same herein, it is should be emphasized that while federal officials may qualify for the absolute or limited immunity available to them in all types of federal civil litigation, they do not receive the same underlying protection that federal agencies receive in the RICO context. This important distinction which is apposite herein was made clear in *McNeily v. United States,* 6 F.3d 343,350 (5th Cir. 1993), in which the Court held that while the FDIC as a federal agency is not chargeable, indictable or punishable for state and federal criminal provisions, *id.,* FDIC officials could face RICO liability since individual officials can violate, as in this case, RICO's predicate acts. *Id. Accord,see also Brown v.Nationsbank Corp.,* 188 F.3d 579, 587(5thr Cir.1999)where even FBI agents would not be afforded the grant of qualified immunity in the RICO scenario.

7. The Doctrines of Fraudulent Concealment, Equitable Estoppel, Equitable Tolling, and Substantial Criminal Acts of Defendant USA Including Those Violative of RICO to Prevent Detection and Prosecution Thereof, Preclude Defen-dant USA's Assertion of the Statute of Limitations as a Defense Herein by Doctrine of Res Judicata or Otherwise.

It should be emphasized that j. matz (a "ringer" brought in by the corrupt clinton administration to replace the

presiding judge to facilitate the continued coverup (as with trump), couldn't have (legitimately) addressed the RICO conspiracy for *res judicata* purposes in light of his (corrupted) decision evincing specific intent not to address the RICO conspiracy and as well the misrepresentation of the record as discussed *infra*. Indeed, j. matz purportedly dismissed, concomitantly misrepresenting the record which clearly set forth a multi-district conspiracy within the ambit of 18 U.S.C. 1965(b) despite his misrepresentation to the contrary, stating that plaintiff had not met his burden according to California (9thCircuit) "law" that there was no other court in which the court would have jurisdiction over all parties, referencing, viz., Connecticut/Coan. It is a well settled rule of law that a dismissal for want of jurisdiction does not preclude suit in a court with jurisdiction, ie.,Connecticut.*American Nat.Bank & Trust v. City of Chicago,*826F2d 1547(7th Cir.1987),cert.den.108 S.Ct. 489,484U.S.977,98 L.Ed.2d487.The clear import and n concomitant of same being that matz had not addressed the RICO conspiracy, but rather left same for that other court, especially in light of j. Arterton's dismissal without prejudice of the 1992 Connecticut RICO stating her mistaken assumption that said matter (which had been stayed) was being resolved through the (parallel adversary proceedings in the) bankruptcy proceedings .

Certainly, defendant usa couldn't possibly (in total defiance of reality and truth) be seriously saying to this Court of Law that "allowing" the subject actions/claims to be filed, followed by defendant usa's egregiously criminal acts to "dispose" of said filings/claims (ie., felonious removal of filed court documents, retaliation against a witness/victim/informant by spurious, illegal contempt proceeding by the shiff bankruptcy court though without jurisdiction to do so, obstruction of justice, bribery, fraud connected with a case under Title 11, mail fraud by shiff court on ie., California bankruptcy court, etc.) to *inter alia* prevent progression of said filings/claims,

prevent discovery, ie., identity/names of "John Doe" perpetrators of predicate acts, etc.), would preclude the invocation of the doctrines of equitable estoppel, fraudulent concealment, or equitable tolling in the instant case. *See also, Meridien Intern. Bank Ltd. v. Government of the Republic of Liberia,* 23 F.Supp.2d 439(S.D.N.Y.).

While plaintiff's claims were timely as set forth in this case and the court below, the doctrine of fraudulent concealment as asserted in Plaintiff's Verified Complaint, Counts Three, Four,and Five was designed to prevent parties, such as defendants U.S.Bankruptcy Court ("USBC")and USA, as well as employees/officials thereof, from concealing a fraud,or committing as has said defendants (bankruptcy fraud and otherwise in a manner that they concealed same,including identities of culpable officials/employees (ie.,through corruption and control of the so-called "process", etc) until such time as the parties committing the fraud, defendants USBC and USA herein, could plead the statute of limitations to protect themselves. *Meridien Intern. Bank Ltd. v. Government of the Republic of Liberia,* 23 F.Supp.2d 439(S.D.N.Y.).

The readily confirmable averments under penalty of perjury giving rise to the instant and substantial (and unnecessarily unfortunate, and embarrassing for defendant usa) meritorious (in contradistinction to defendant usa's blind rhetoric) action predicated upon outrageously criminal acts of defendants coan, usa, and John Does 1 - 15, have been conveniently misstated/spun by defendant usa and are set forth in Petitioner's Verified Complaint.

AS TO COUNTS THREE AND FIVE, TORT AND RICO, RESPECTIVELY AND THE FACTUAL AVERMENTS,A–J,UNDERPINNING SAME

A. Felonious removal of filed federal court documents to obstruct justice, coverup identity of federal employee "John Doe" perpetrators, damaging appellant thereby.

B. Employee of defendant usa, alan shiff did commit fraud connected with a case under Title 11, U.S.C., also obstructing justice thereby, (and illegally extracting sanctions from plaintiff-violative of Title 18 U.S.C. 1513), causing plaintiff/appellant substantial damages to his property and business thereby.

C. Employee of defendant usa, alan shiff did commit fraud connected with a case under Title 11, U.S.C., (Chapter 7, California, 6-4-96) also obstructing justice thereby, causing plaintiff/appellant substantial damages to his property and business thereby.

D. As a direct consequence of bribery in the form of drug money laundered through the trump (mob family – the trumps should be in jail – parenthetically, it is preposterous that trump is suing the State of New York) casinos, consistent with a pattern of racket-eering activity, federal employee/u.s. trustee hugh leonard (wound up on retainer by the RICO defendant dilenas) was provided documentation of the RICO crimes and refused to intervene in the then pending RICO action after I was constrained to file a Chapter 11 proceeding (owing to delays precipitated by Maryanne trump), federal employee maryanne trump (barry) wrongfully/illegally dismissed plaintiff/appellant's civil RICO action against defendants dilena and companies owned and operated by dilena, obstructing justice and causing plaintiff/appellant substantial damages to his property and business thereby.

E. Federal employees (ie., lacey, allito, etc.) did illegally, wrongfully "dispose" of documentation of the drug money laundering through the trump casinos and other crimes, covering up said crimes and obstruc-ting justice thereby, causing plaintiff/-appellant substantial damages to his property and business.

F. Federal corruption in the processes in violation of RICO in both new jersey (May, 1988) and Connecticut (shiff-1989) led to my filing for a(n orderly liqui-dation of assets including three real properties with substantial equity far in excess of liabilities under) Chapter 7 proceeding in Virginia(September, 1989) where I had maintained an office. Said Virginia pro-ceeding which would have resolved all matters was never consumated in accordance with law, also obstruc-ting justice thereby, causing plaintiff/appellant sub-stantial damages to his property and business thereby.

G. Defendant usa totally mistates the fact that in 1992 I filed a RICO action (Dkt.#92cv0166)in the federal district court in Connecticut, which action was stayed by Judge Daley pending the resolution of the parallel adversary proceedings in the then extent bankruptcy proceeding in Connecticut. Upon Judge Daley's passing, the case was transferred to Judge Thompson (1995), and then to Judge Arterton (1996) who dismissed the case **without prejudice** indicating that it was her under-standing that said case was being resolved in the corrupted bankruptcy proceeding giving rise to the instant case. The RICO predicate acts of fraud connected with a pattern of racketeering activity, including obstruction of justice,caused appellant sub-stantial damages to his property and business thereby.

H. For the purpose of perpetrating a fraud connected with cases under Title 11, to coverup crimes consis-tent with a pattern of racketeering activity, and to obstruct justice thereby, and conceal RICO predicate acts, the shiff court and San Bernadino(CA) bankruptcy courts used false and conflicting notices of hearing causing plaintiff/appellant substantial damages to his property and business.

I. For the purpose of perpetrating a fraud connected with cases under Title 11, to coverup crimes consistent with a pattern of racketeering activity, and to obstruct justice thereby, and conceal RICO predicate acts, federal employee alan shiff did dismiss with prejudice meritorious adversary proceedings (some ripe for the entry of default/judgment), also constituting misprision of felony, causing plaintiff/appellant substantial damages to his property and business (with defendant coan complicitly culpable in failing to file opposition thereto by the court ordered deadline).

Another corrupt federal employee, j. matz, LA, CA, Central District Court of California judge, in 1999 did fraudulently misrepresent the record of proceedings, obstructing justice thereby, and to coverup predicate acts under RICO among other crimes consis-tent with a pattern of racketeering activity, also committing misprision of felony thereby.[Fedex Corp. is also in contempt of a subpoena regarding transmis-sions by plaintiff/appellant to (u.s.) attorneys general (former) barr and reno for which plaintiff sought sanctions/enforcement].

While both equitable estoppel and equitable tolling are apposite in the present case, said doctrines are distinct in that equitable tolling allows plaintiff to avoid the bar of the limitations period if despite due diligence he is unable to obtain vital information bearing on the claim (ie., names of employees of defendant(s) feloniously removing filed court documents, precluding discovery and obstructing justice thereby,etc.), whereas equitable estoppel prevents a defendant from asserting untimeliness where the defendant (as defendants USA and USBC and "John Doe defendants") has taken active steps to prevent the plaintiff from litigating in time (ie., RICO predicate acts including bankruptcy fraud, obstruction of justice,bribery,etc.,"tying up" proceedings).

As To Defendant Coan:

The decision of the court(s) below, entered contrary to the decision of the district court by Judge Chatigny, Bankruptcy No.95-51862, No.3:97-CV1165(RNC),212 B.R. 217(D.Conn.1997),constitutes clear error and should be **REVERSED and JUDGMENT for the sum certain amount as demanded in plaintiff's complaint ENTERED IN PLAINTIFF/APPELLANT'S FAVOR.**

In the alternative, said decision should be **REVERSED.**

As To Defendant(s) U.S.Bankruptcy Court, United States of America:

The decision of the court below, entered contrary to meaningful law, should be **REVERSED.**

VIII. ARGUMENT

A. Reasons for Granting the Writ

* In the case *sub judice,* in contradistinction to Barton v. Barbour, supra, defendant coan has clearly substantially damaged petitioner and substantially benefited RICO defendants (including John Doe defendants). Moreover, there was no RICO statute extent at said time to address the endemic and pervasive corruption that has become synonomous with America today and that the RICO statute was enacted thwart consistent with the liberal construction to be accorded said remedial legislation as per the Court in *Sedima, S.P.R.L. v. Imrex Co., Inc.,* 473 U.S. 479 (1989). Specifically, plaintiff/ appellant's action herein was to preserve the estate which has been purposefully and consistently damaged by defendant coan consistent with a pattern of racketeering activity by an

enterprise of which defendant coan along with defendant U.S. Bankruptcy court that appointed him was a part.

* Surely, as set forth *supra* and in the case *sub judice,* the egregiously illegal, wrongful, criminal acts and RICO predicate violations of Defendant USA's employees, agents, and contractors by reason of which plaintiff/appellant sustained substantial injury to his property and business could not possibly be deemed sovereign or governmental. Indeed, the same policy considerations are apposite in the present case "to effectuate(RICO's)remedial purpose" and to prevent and deter further infiltration by and growth of organized crime and corruption in the U.S. government itself.

* Despite strong policy reasons militating against sovereign immunity as set forth *supra*, even assuming, *arguendo,* the grant of same herein, it is should be emphasized that while federal officials may qualify for the absolute or limited immunity available to them in all types of federal civil litigation, they do not receive the same underlying protection that federal agencies receive in the RICO context. This important distinction which is apposite herein was made clear in *McNeily v. United States,* 6 F.3d 343,350 (5th Cir. 1993), in which the Court held that while the FDIC as a federal agency is not chargeable, indictable or punishable for state and federal criminal provisions, *id.*, FDIC officials could face RICO liability since individual officials can violate, as in this case, RICO's predicate acts. *Id. Accord,see also Brown v.Nationsbank Corp.*,188 F.3d 579, 587(5th Cir.1999)where even FBI agents, and hence other federal employees (Leonard, Trump, Alito, Shiff, etc.) as appropriate herein,would not be afforded the grant of qualified immunity in the RICO scenario. The court can clarify this presently irreconcilable state of the law.

* The doctrine of *respondeate superior* is also apposite militating against defendant usa's spurious claim of

immunity given the high-ranking government officials involved in the illegal acts, the substantial injury (including an $800 sanction illegally and fraudulently extracted by shiff as a consequence of his fraud connected with a case under Title 11) to plaintiff('s property and business), etc., and in retaliation against a witness, victim, informant, viz., peitioner herein. *See gen., Brady v.Dairy Fresh Products,974 F.2d 1149(9thCir1992; Denny v. U.S.Postal Service, 916 F.Supp.1081(D.Kan.1996).* The court can eliminate the divergence of circuit court opinion regarding the aforesaid and related issues.

*The court has the opportunity to show that a meaningful rule of law consistent with civilized behavior is still a possibility in the u.s., and that the court(s) (and judicial branch of u.s. government) can rise above their inherently and presently corrupt criminal nature so as not to become irrelevant and an historic fiction leading to restructuring and dismantling of an enormous, corrupted, and wastefully costly (at this time of scarce resources and growing deficits – technical "insolvency", ie., unfunded social security liabilities, etc.) bureaucracy that has failed in mission and purpose, to be supplanted by polygraph tested, background checked, intelligent arbiters at an extremely small fraction of the cost.

IX. CONCLUSION

This case is neither "brain surgery" nor a "mystery of the universe". Indeed, despite a u.s. propaganda machine of enormous proportion, the world and ultimately the very ignorant people of this nation are beginning to come to grips with the enormity and pervasiveness of america's endemic criminality and lawlessness, domestically and internationally. Quite simply, this case emanates from various federal crimes involving RICO predicate acts and as well, through federal employees,the u.s. government at the highest

levels. Indeed, RICO violations including the laundering of the illegal proceeds of a "business" in which high-ranking u.s. government officials are involved in a very big way, viz., the illegal drug trade, etc., and the not surprising illegal steps to cover-up same, ie., bribery, obstruction of justice, etc., are the gravamen of the instant case. Clearly documented as well is the crime of fraud connected with a case under Title 11 (and not merely the euphemistically referred to 'misrepresentation') perpetrated by federal employee alan shiff violative of RICO and for which no "judicial immunity" is appropriate. Not surprising is the complicity in the RICO violations by "federally appointed" contractor, defendant coan whose attempt to thwart progression of the meritorious causes (and as has been so for all federal employees/judges, precluding discovery the intended concomitant of same) are clearly documented. As set forth herein, defendant coan, to preclude accountability for his criminal and culpable acts brought an action with bankruptcy reference against plaintiff to preclude suit against him without leave of court, and which relief as sought by coan was clearly denied by Robert N. Chatigny, u.s.d.c.j., dist. Of conn.. Specifically, in Judge Chatigny's own concluding words in pertinent part,

> 'On the existing record, a "leave of court" requirement should ***not*** (emphasis supplied)be imposed on Peia with regard to ***any*** (emphasis supplied) future legal action he might bring against plaintiff Coan.....If Peia does sue Coan, and the complaint proves to be frivolous, appropriate sanctions can be imposed by the judge who gets that complaint, including an order prohibiting Peia from filing another action without leave of court.'
> 212 B.R. 217, 220 (D.Conn.1997).

Defendant coan was well aware of his blatent, brazened illegal conduct violative of RICO and contrary to bald

assertion, *Id.*, was part of the pattern of RICO activity as set forth in plaintiff's complaint.

U.S.C. 18 Section 1965(5) provides as follows:

> "'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity(.)"

It should also be noted as raised below and for which Judicial Notice was requested [in addition to District of Connecticut RICO action #92cv0166(JBA)(stayed), BKY.#95cv51862 and parallel (to RICO action) adversary proceedings], a judgment in plaintiff's favor had been entered on 9-19-96, U.S.D.C., District of Conn., #3:93cv0205(AWT), and has neither been executed upon nor abandoned by defendant coan. Additionally, in the California RICO/tort proceedings, defendant usa was in default (exhibits below) which of course is no problem because everybody knows that federally employed criminals/contractors are above the "law".

In sum, the "decision(s)" below demonstrate so compelling a need for the exercise of this court's power of supervision that it should be summarily reversed, pursuant to Supreme Court Rule 16, on the issues presented by this petition. Each day that the aforesaid decision(s) below is (are) allowed to stand, the criminally result-oriented "rationale" along with concomitant crimes, misstatements of law and fact, will work predictable mischief by unsettling long-standing principles established by the court, further muddy conflicting law among the circuits, and leave open to question by all, what has now become historic fiction in this country, that no man is above the law.

Respectfully Submitted and Signed by:

Albert L. Peia, Petitioner Pro Se